



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 24, 1998

Mr. Pedro P. Lopez, Jr.
Superintendent of Schools
Premont Independent School District
P.O. Box 530
Premont, Texas 78375

OR98-2842

Dear Mr. Lopez:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119922.

The Premont Independent School District received a request "to inspect and/or make copies of . . . the names and dates of birth of the school district's bus drivers, including part-time drivers." You requested "an opinion from [this] office as to the legalities of providing the newspaper with birthdates of [your] personnel and allowing the newspaper staff to inspect the personnel files of our employees." You did not, however, submit to our office certain information that is required to be submitted to our office under section 552.301(b). Specifically, you did not submit written comments explaining the reasons why the stated exceptions apply to the information, a copy of the specific information requested, or a representative sample of the information if the documents are numerous and repetitive.

Pursuant to section 552.303(c) of the Government Code, on September 15, 1998, our office notified you by letter sent via facsimile that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information.

You did not timely provide our office with the information that was requested in our September 15, 1998 notice to you. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown compelling reasons why the information at issue should not be released. Therefore, the information is presumed to be public and must be released. *See* Open Records Decision No. 455 (1987) (applicants' birthdates not protected based on common-law right to privacy). We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/mjc

Ref.: ID# 119922

cc: Mr. Mike Wallace
Assistant Metro Editor
Corpus Christi Caller-Times
P.O. Box 9136
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